



Ellenbrook Eels Netball Club Inc.

# Complaint Handling Procedures of Ellenbrook Eels Netball Club

Works in conjunction with the Ellenbrook Eels Netball Club Constitution

Dated: March 2018

# 1. Complaints Procedure

All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection or other relevant legislation.

If you wish to remain anonymous, the Ellenbrook Eels Netball Club Inc. may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that the Ellenbrook Eels Netball Club Inc. is required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

## INFORMAL APPROACHES

### **Step 1: Talk with the other person (where this is reasonable and appropriate)**

In the first instance, you (the Complainant) should try to sort out the problem with the person or people involved (respondent) if you feel able to do so.

### **Step 2: Contact a Member Protection Information Officer**

Talk with one of Netball WA's Member Protection Information Officers (MPIOs) or to EENC Vice President if:

- the first step is not possible/reasonable;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially about the problem with someone and obtain more information about what you can do; or
- the problem continues after you tried to approach the person or people involved.

For information on Netball WA's MPIOs contact Mark Watton – Member Services Manager on 08 9380 3742 or [mark.watton@netballwa.com.au](mailto:mark.watton@netballwa.com.au) where all matters will remain confidential.

The MPIO will:

- take confidential notes about your complaint;
- try to find out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- act as a support person if you so wish;
- refer you to an appropriate person (e.g. Mediator) to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so;
- maintain confidentiality.

### **Step 3: Outcomes from initial contact**

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution (with or without a support person such as a MPIO); or
- to seek a mediated resolution with the help of a third person (such as a mediator); or
- to seek a formal approach.

## **FORMAL APPROACHES**

### **Step 4: Making a Formal complaint**

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- make a formal complaint in writing to the President of Ellenbrook Eels Netball Club Inc.; or
- approach a relevant external agency such as an anti-discrimination commission, for advice.

On receiving a formal complaint and based on the material you have provided, the President will decide whether:

- they are the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure;
- to appoint a person to **investigate** (gather more information on) the complaint;
- to refer the complaint to mediation;
- to refer the complaint to a hearings tribunal;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the President will take into account:

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If the President is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide if they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- determine what, if any, further action to take. This action may include disciplinary action in accordance with this policy.

#### **Step 5: Investigation of the complaint**

- A person appointed under Step 3 will conduct an investigation and provide a written report to the Ellenbrook Eels Netball Club Inc. Committee who will determine what further action to take;
- If the complaint is referred to mediation, it will be conducted in accordance with the Constitution of Ellenbrook Eels Netball Club Inc. or as otherwise agreed by you and the respondent and the mediation provider;
- If the complaint is referred to the police or other appropriate authority, the Ellenbrook Eels Netball Club Inc. will use its best endeavours to provide all reasonable assistance required by the police or other authority.

The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator, as per Section 24(6) of the Constitution of Ellenbrook Eels Netball Club Inc.

#### **Step 6: Reconsideration of initial outcome/investigation or appeal**

If, under the formal complaint process, mediation is unsuccessful, you may request that the President reconsider the complaint in accordance with **Step 3**.

You or the respondent(s) may be entitled to resolution by the State Administrative Tribunal. Section 182(1) of the Associations Incorporation Act 2015 provides that an application may be made to the State Administrative Tribunal to have a dispute determined if the dispute has not been resolved under the procedure provided for in the incorporated association's rules.

#### **Step 7: Documenting the resolution**

The President will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/district level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

## EXTERNAL APPROACHES

There are a range of other options available depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory anti-discrimination commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be harassment within its jurisdiction, you may lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, it will investigate. If it appears that unlawful harassment or discrimination has occurred, the commission will conciliate the complaint confidentially. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an MPIO) as a support person throughout the process.

You could also approach another external agency such as the police.

## 2. Investigation Process

If an investigation needs to be conducted to gather more information the following steps will be followed:

1. We will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
  - 1.1. Interview the complainant and record the interview in writing.
  - 1.2. Convey full details of the complaint to the respondent (s) so that they can respond.
  - 1.3. Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - 1.4. Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
  - 1.5. Make a finding as to whether the complaint is:
    - substantiated (there is sufficient evidence to support the complaint);
    - inconclusive (there is insufficient evidence either way);
    - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
    - mischievous, vexatious or knowingly untrue.
  - 1.6. Provide a report to the President documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser (e.g. MPIO or other person).

### 3. Procedure for Allegations of Child Abuse

An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. It is not the responsibility of anyone working in the Ellenbrook Eels Netball Club Inc. in a paid or unpaid capacity to decide whether or not child abuse has taken place. However, there is a responsibility to act on any concerns by reporting these to the appropriate authorities. The following outlines the key steps to follow. More information can be obtained from State or Territory government agencies.

#### **Step 1 – Initial Receipt of an Allegation**

If a child or young person discloses an allegation involving harm or abuse to them or another child, then it is crucial that you:

- Stay calm;
- Listen, be supportive and do not dispute what the child says;
- Reassure the child that what has occurred is not the fault of the child;
- Be honest with the child and explain that other people may need to be told in order to stop what is happening;
- Ensure you are clear about what the child has said but do not elicit detailed information, ask leading questions or offer an opinion;
- Act promptly to accurately record the discussion in writing;
- Do not discuss the details with any person other than those detailed in these procedures; and
- Do not contact the alleged offender.

#### **Step 2 – Report allegations**

- Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).
- If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- If the allegation involves anyone to whom our policy applies, then also report the allegation to the CEO of the Ellenbrook Eels Netball Club Inc. so that they can manage the situation (e.g. contact the parents following advice from the authorities, deal with any media enquiries and manage steps 3 and 4).

#### **Step 3 – Protect the child and manage the situation**

- The President will assess the risks and take interim action to ensure the child's/children's safety. Action the Ellenbrook Eels Netball Club Inc. may implement includes redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined. Please be aware it is not the MPIO's role to undertake action such as redeploying someone and seek legal advice if person is in a paid employment]
- The President will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The President will address the support needs of the alleged offender.
- The President will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.

#### **Step 4 – Internal action**

- Where there is an allegation made against a person to whom this policy applies, there may be three types of investigations:
  - Criminal (conducted by police)
  - Child protection (conducted by child protection authority)
  - Disciplinary or misconduct (conducted by Ellenbrook Eels Netball Club Inc.)
- Irrespective of the findings of the child protection and/or police inquiries, the Ellenbrook Eels Netball Club Inc. will assess the allegation to decide whether the person should be reinstated, banned, have their employment or position terminated or any other action.
- The decision-maker(s) will be the Committee of the Ellenbrook Eels Netball Club Inc. and it will consider all the information, including the findings of the police, government agency and/or court, and determine a finding, recommend action and explain its rationale for the action. This may be a difficult decision particularly where there is insufficient evidence to uphold any action by the police.
- If disciplinary action is to be taken, the procedures outlined in Part 4 of the Constitution of the Ellenbrook Eels Netball Club Inc. will be followed.
- If disciplinary action is taken, the Ellenbrook Eels Netball Club Inc. will advise and provide a report to the relevant government authority should this be required (e.g. the Department of Child Protection).